Supreme Court, U. S.
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IN THE

Supreme Court of the United States

October Term 1979

No. 79-243

RICHMOND NEWSPAPERS, INC., TIMOTHY B. WHEELER, and KEVIN McCARTHY,

v.

Appellants,

COMMONWEALTH OF VIRGINIA,

Appellee.

RICHMOND NEWSPAPERS, INC., TIMOTHY B. WHEELER, and KEVIN McCARTHY,

v.

Appellants,

RICHARD H.C. TAYLOR,

Appellee.

ON APPEAL FROM THE SUPREME COURT OF THE COMMONWEALTH OF VIRGINIA

BRIEF AMICI CURIAE IN SUPPORT OF JURISDICTIONAL STATEMENT

THE REPORTERS COMMITTEE FOR FREEDOM OF THE PRESS
THE ASSOCIATED PRESS MANAGING EDITORS
THE NATIONAL ASSOCIATION OF BROADCASTERS
THE NATIONAL NEWSPAPER ASSOCIATION
THE NATIONAL PRESS CLUB
THE RADIO-TELEVISION NEWS DIRECTORS ASSOCIATION
THE SOCIETY OF PROFESSIONAL JOURNALISTS, SIGMA DELTA CHI
THE VIRGINIA PRESS ASSOCIATION

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COURT WATCH STUDY

EFFORTS TO CLOSE CRIMINAL JUSTICE PROCEEDINGS INITIATED, DECIDED OR PENDING FROM JULY 2, 1979 (GANNETT v. DE PASQUALE) TO AUGUST 23, 1979

Compiled by The Reporters Committee for Freedom of the Press

In cooperation with:

The American Newspaper Publishers Association
The American Society of Newspaper Editors
The Associated Press
The Associated Press Managing Editors
Gannett Newspapers
The National Association of Broadcasters
The National Newspaper Association
The Radio-Television News Directors Association
The Society of Professional Journalists
United Press International

SUMMARY

Closures enforced or upheld on appeal since July 2, 1979	- 26 cases
Closure motions refused or withdrawn	- 21
Closure motions made but not acted upon	- 3
Direct prior restraints on publication	- 1
	51

Types of proceedings sought to be closed:

Pre-indictment	1
Pretrial	38
Trial or conviction	10
Post-Trial	2
	51

#	CITY CASE	TYPE OF PROCEEDING CLOSURE MOTION BY	ACTION BY COURT	DATE	COURT'S GROUNDS FOR SEALING PROCEEDING
1.	Media, Pa. Murder	Pretrial Defense	CLOSED to press & public UPHELD on appeal	3/28/77 7/2/79	State court closure rule
2.	Baltimore, Md. Tax fraud	Pretrial *(Fed) Defense & Prosec'n	CLOSED to press & public PENDING U.S. Court of Appeals	12/1/77 8/1/79	Grand jury secrecy
3.	Hanover Co., Va. Murder	Trial Defense	CLOSED to public & press UPHELD on appeal	9/11/78 7/9/79	Prejudice to jury
4.	Albany, N.Y. Assault	Guilty Plea Conviction Defense & Prosec'n	CLOSED to public & press UPHELD on appeal	3/7/79 8/9/79	Prejudice to jury
5.	NYC, N.Y. Murder	Pretrial Defense	CLOSED to public & press UPHELD on appeal	3/20/79 7/9/79	Prejudice to jury
6.	Los Angeles, Cal. Attempted Murder	Pretrial Defense	CLOSED to public & press UPHELD on appeal	4/23/79 6/79	Prejudice to jury
7.	Berkeley, Cal. Robbery	Pretrial Defense	Closure REFUSED	7/2/79	
8.	Oakland, Cal. Murder	Pretrial Defense	Closure motion WITHDRAWN	7/2/79 7/5/79	
9.	NYC, N.Y. Attempted Murder	Sentencing Defense	Closure REFUSED	7/24/79	
10.	Buffalo, N.Y. Assault	Prob. cause hearing Defense	CLOSED to public & press	7/6/79	Embarrass-ment to sus-pect
11.	Madison, Wis. Assault	Pretrial Defense	Closure REFUSED PENDING on appeal	7/6/79 8/1/79	
12.	Conway, S.C. Murder	Pretrial Defense	CLOSED to press OPEN to public	7/9/79	Prejudice to jury
13.	Omaha, Neb. Murder	Pretrial Defense	CLOSED to public & press	7/10/79	Prejudice to jury

*Fed = Federal Court Closures.
All Others Are State Closures.

# CITY CASE	TYPE OF PROCEEDING CLOSURE MOTION BY	ACTION BY COURT	DATE	COURT'S GROUNDS FOR SEALING PROCEEDING
14. Oakland, Cal. Murder	Pretrial Defense	Closure REFUSED Closed to public & press on appeal	3/21/79 7/13/79	State closure law
15. Annapolis, Md. Arson	Pretrial Defense	CLOSED to public & press	7/13/79	Prejudice to jury
16. Rochester, N.Y. Murder	Pretrial Defense	Closure REFUSED	7/16/79	
17. Littleton, Colo. Murder	Trial Defense	Closure REFUSED	7/17/79	
18. Okla. City, Ok. Illegal Influence	Pretrial Prosecution *(Fed)	Closure REFUSED	7/18/79	
19. Seattle, Wash. Murder	Pretrial Defense *(Fed)	Closure REFUSED	7/27/79	
20. Albany, N.Y. Burglary	Pretrial Defense & Prosec'n	CLOSED to public & press	7/19/79	Prejudice to jury
21. Madison, Wis. Murder	Pretrial Defense	Closure REFUSED	7/20/79	
22. Albany, N.Y. Drugs	Pretrial Defense	CLOSED to press OPEN to public	7/20/79	Prejudice to jury
23. Golden, Colo. Drugs	Pretrial Defense	Closure motion PENDING	7/23/79 8/1/79	
24. Hunt., W. Va. Kidnapping	Pretrial Defense	CLOSED to press OPEN to public	7/24/79	Prejudice to jury
25. Albany, N.Y. Sodomy	Trial Witness & Defense	Closure REFUSED	7/25/79	
26. Westminster, Md. Rape	Trial (non-jury) Defense	CLOSED to public & press	7/25/79	Embarrass-ment to victim

#	CITY CASE	TYPE OF PROCEEDING CLOSURE MOTION BY	ACTION BY COURT	DATE	COURT'S GROUNDS FOR SEALING PROCEEDING
27.	Oneonta, Ala. Murder	Trial Judge	NO PUBLICATION ORDER VS. PRESS	7/26/79	Prejudice to jury
28.	Mt. Carroll, Ill. Murder	Pretrial Defense	CLOSED to public & press	7/28/79	Prejudice to jury
29.	Albany, N. Y. Burglary	Pretrial Defense	Closure REFUSED	7/30/79	
30.	Kearney, Neb. Rape	Pretrial Defense	CLOSED to public & press	7/31/79	Embarrassment to victim
31.	N. Bed., Mass. Kidnap/Murder	Pretrial Defense & Prosec'n	CLOSED to public & press	7/20/79	Prejudice to jury
32.	Nash., Tenn. Bribery	Trial *(Fed) Defense	Closure motion PENDING	8/2/79 8/6/79	
33.	Papillion, Neb. Murder	Pretrial Defense	CLOSED to public & press	7/30/79	Prejudice to jury
34.	Aurora, Neb. Embezzlement	Pretrial Defense	CLOSED to public & press	7/31/79	Prejudice to jury
35.	Jefferson, Ohio Kidnap/Murder	Pretrial Defense	CLOSED to public & press	8/2/79	Prejudice to jury
36.	Okla. City, Ok. Murder	Pretrial Defense	Closure motion WITHDRAWN	7/27/79 7/30/79	
37.	Ellsworth, Maine Murder	Pretrial Defense	Closure REFUSED	7/27/79	
38.	Des Moines, Iowa Counterfeiting	Trial *(Fed) Defense	Closure motion PENDING	7/25/79 8/6/79	
39.	Okla. City, Ok. Murder	Pretrial Defense	Closure REFUSED	7/26/79	

# CITY CASE	TYPE OF PROCEEDING CLOSURE MOTION BY	ACTION BY COURT	DATE	COURT'S GROUNDS FOR SEALING PROCEEDING
40. N. Platte, Neb. Murder	Pretrial Defense & Prosec'n	Closure REFUSED	8/13/79	
41. Charlotte, N.C. Rape	Trial Prosecution	CLOSED to public & press	7/12/79	Embarrassment to witness
42. Charleston, W.Va. Rape	Trial * (Fed) Defense	Closure REFUSED	8/16/79	
43. Honolulu, Hawaii Attempted Murder	Pretrial Defense	Closure REFUSED	7/18/79	
44. Riverhead, N.Y. Murder	Pretrial Defense	CLOSED to public & press Closure REVERSED	8/8/79 8/15/79	Prejudice to jury
45. Grand Rapids,Mich. Murder	Pretrial Defense	Closure REFUSED	7/2/79	
46. Honolulu, Hawaii Rape	Pretrial Defense Trial Defense	CLOSED to public & press Closure REFUSED	7/23/79 7/23/79	Embarrassment to defendant
47. Napa, Cal. Murder	Pretrial Defense	CLOSED to press & public	7/18/79	State Closure Law
48. Antigo, Wisc. Murder	Pretrial Defense & Prosec'n	OPEN to public CLOSED to press (except press which agreed to suppress news)	8/7/79	Prejudice to jury
49. Oakland, Cal. Murder	Pretrial Defense	CLOSED to public & press	8/16/79	State Closure Law
50. Dallas, Oregon Assault	Pretrial Defense	Closure REFUSED	8/10/79	
51. NYC, N.Y. Bribery	Post-trial *(Fed) Defense	CLOSED to public & press	7/31/79	Prejudice to future jury

U.S. SUPREME COURT ALLOWS SECRET PENNSYLVANIA HEARING

1. March 28, 1977: Media, Pennsylvania; Court of Common Pleas; Murder case against W.A. Boyle for the death of Joseph Yablonski: Pretrial proceeding to suppress evidence.

   Defense counsel made motion to seal pretrial proceedings and transcripts under Pennsylvania court rule that permits total secrecy of pretrial proceedings merely on the motion of the defense. Prosecution did not oppose. Philadelphia Inquirer and other news organizations intervened (this case was consolidated with two other closure motions in two unrelated murder trials).

   Judges ordered sealed proceedings and sealed transcripts in all three cases.

   April 1978: Pennsylvania Supreme Court upheld trial court closures and transcript sealings.

   July 2, 1979: U.S. Supreme Court denied review. Philadelphia Newspapers, Inc. v. Jerome, No. 78-155, appeal dismissed (U.S. Sup. Ct. July 2, 1979).

FEDERAL APPEALS COURT TO DECIDE SECRET TAX CASE HEARING

2. December 1, 1977: Baltimore, Maryland; U.S. District Court; Influence peddling and tax evasion case against Mr. & Mrs. Hancho Kim, an associate of Korean businessman Tongsun Park: Pretrial proceeding for discovery of evidence, to suppress evidence and to dismiss the indictment.

   U.S. attorney and defense counsel made motion to seal pretrial proceedings and accompanying briefs on the grounds that it was necessary in order to preserve grand jury secrecy.

   Judge ordered proceedings closed, documents and transcripts of proceedings sealed and barred press and the public from the courtroom, citing the necessity for grand jury secrecy. Baltimore Sun Newspapers attempted to intervene: intervention was denied and the Sun Newspapers filed a suit.

   April 10, 1978: U.S. District Court affirmed the ruling. Sun Newspapers appealed.

   August 1, 1979: Appeal pending before U.S. Court of Appeals, 4th Cir.

   A.S. Abell, Co. v. Miller, NO. M-78-364 (D. Md. April 10, 1978).

VIRGINIA SUPREME COURT UPHOLDS SECRET TRIAL

3. September 11, 1978: Hanover County, Virginia; Circuit Court; Motel murder case trial.

   Defense counsel made motion to close entirely to the public and the press the fourth trial (three others ended in a mistrial) on the grounds that news accounts might prejudice the defendant's right to an impartial jury because the jury might read news reports of evidence sought to be introduced but not introduced: Prosecution did not object.

   Judge ordered the trial closed on grounds of prejudicial publicity and inadequate courtroom space. Richmond Times-Dispatch

and News Leader appealed the sealed trial to the Virginia Supreme Court.

July 9, 1979: Virginia Supreme Court upheld the secret trial, citing Gannett.

August 14, 1979: Richmond Newspapers filed notice of appeal in U.S. Supreme Court.

In re Richmond Newspapers, Inc., appeal denied, No. 781598, petition for mandamus denied No. 781599, petition for prohibition denied, No. 781600 (Va. July 9, 1979).

NEW YORK APPEALS COURT UPHOLDS GUILTY PLEA CONVICTION SECRECY

4. March 7, 1979: Albany, New York; Albany County Court; Assault case: Pretrial proceeding to suppress evidence on grounds that news accounts of co-defendant's confession might prejudice defendant's right to obtain an impartial jury. Prosecutor joined the motion. Co-defendant did not oppose the motion.

Judge ordered co-defendant proceeding sealed. An Albany Times-Union reporter tried to enter the courtroom during the proceeding but was not permitted to do so.

After the closure was ordered, defendant entered a plea of guilty, a proceeding which was also closed: Times-Union filed appeal seeking to declare the closure order invalid.

August 9, 1979: New York Supreme Court Appellate Division upheld the secret proceeding.

Hearst Corporation v. Clyne, No. 35510 (N.Y. Sup. Ct. App. Div. August 9, 1979).

NEW YORK APPEALS COURT UPHOLDS NEW YORK CITY SUBWAY MURDER CASE SECRECY

5. March 20, 1979: New York City; Supreme Court, Bronx County; Subway murder case against youth treated as an adult under Youth Offender Act: Pretrial proceeding to suppress confession.

Defense counsel made motion to seal pretrial proceeding on grounds that publicity would be prejudicial to the defendant's right to obtain an impartial jury: Prosecution opposed the closure. New York Daily News filed a motion in objection to the closure.

Judge ordered the proceedings closed on grounds of prejudicial publicity: New York News appealed to the Appellate Division which upheld the trial judge: New York News appealed to the Court of Appeals.

July 9, 1979: New York Court of Appeals affirmed the closure citing Gannett.

In re Merola, No. 353 (N.Y. Ct. App. July 9, 1979).

CALIFORNIA APPEALS COURT TO DECIDE SYNANON PRETRIAL SECRECY

6. April 23, 1979: Los Angeles, California;

Superior Court, Los Angeles County; Soliciting murder and attempted murder case against the founder of Synanon and others charged with placing a poisonous snake in a lawyer's mailbox: Pretrial proceeding to suppress evidence.

Defense counsel made motion to seal pretrial suppression hearing on the grounds that news accounts might prejudice defendant's right to obtain an impartial jury, citing California Penal Code Seciton 868 requiring closed pretrial proceedings merely upon the motion of the defense. Prosecution apparently did not oppose. Los Angeles Times and other press groups opposed.

Judge ordered the proceedings sealed. Los Angeles Times and other press groups appealed.

May 4, 1979: Superior Court upheld the secret proceeding. Los Angeles Times and other press groups appealed separately.

June 1979: California Court of Appeals denied the appeals of Los Angeles Times and other press groups. Los Angeles Times and other press groups appealed. California Supreme Court denied the appeals.

In re. Charles Dederich, No. C281341 (Calif. Super. Ct. May 4, 1979).

CALIFORNIA ROBBERY PRETRIAL CLOSURE REJECTED

7. July 2, 1979: Berkeley, California; Alameda Cnty. Superior Court; Bank robbery case; Pretrial suppression proceeding.

   Defense counsel for one of six co-defendants moved to seal pretrial suppression hearing on the grounds that news accounts might prejudice defendant's right to obtain an impartial jury, citing California Penal Code Section 868 requiring closed pretrial proceedings merely upon the motion of the defense. One co-defendant opposed motion citing the right to a public trial provision of the Sixth Amendment. Prosecution took no position on the motion. Oakland Tribune intervened.

   Judge denied closure motion on grounds that state law was unconstitutionally overbroad and because at least one co-defendant wanted the pretrial proceeding open.

   State v. Brooks, No. 74625 (Calif. Super. Ct., Alameda County, July 2, 1979).

CALIFORNIA MURDER PRETRIAL CLOSURE MOTION WITHDRAWN

8. July 2, 1979: Oakland, California; Alameda County Superior Court; First degree murder case: Pretrial suppression hearing.

   Defense counsel made motion to seal pretrial proceeding from the press and the public on the grounds that news accounts would prejudice the defendant's right to obtain an impartial jury. Prosecutor opposed the motion. San Francisco Examiner reporter verbally opposed the motion. Judge took motion under consideration.

   July 5, 1979: Motion withdrawn; charges against defendant reduced.

   State v. Reilly, N0. 663-42 (Calif. Super. Ct., Alameda County July 5, 1979).

NEW YORK CITY POST-CONVICTION SENTENCING CLOSURE REJECTED

9. July 5, 1979: New York City; Supreme Court, New York County; Attempted murder case: Post-conviction sentencing hearing.

   Defense counsel made motion to seal a sentencing hearing for defendant convicted of attempted murder, citing danger of pre-judicial publicity to the defendant in a second but unrelated pending murder charge against him. Prosecution opposed the closure motion. Newsday and The New York Times filed a motion opposing the closure.

   July 24, 1979: Judge declined to seal the proceedings.

   People v. Wright, No. 1396/78 (N.Y. Sup. Ct., N.Y. County July 24, 1979).

BUFFALO PROBABLE CAUSE HEARING CLOSED

10. July 5, 1979: Buffalo, New York; Municipal Court; Assault case against Roman Catholic nun accused of mistreating a student: Probable cause hearing on arrest warrant.

    Defense counsel made motion to seal hearing on grounds of the danger of personal embarrassment to defendant. Prosecution and press did not object.

    Judge ordered proceeding sealed.

    Dickerson v. Bronisia, No. 2C22233 (Buff. Mun. Ct. July 6, 1979).

WISCONSIN APPEALS COURT TO DECIDE PRETRIAL ASSAULT CASE SECRECY

11. July 6, 1979: Madison, Wisconsin; Dane County Circuit Court; Baseball bat assault case: Pretrial suppression proceeding.

    Defense counsel made motion to close upcoming trial on grounds that news accounts might prejudice the defendant's right to obtain an impartial jury in another pending, but unrelated trial. Prosecutor and press made no objection.

    Judge denied motion on grounds that there were alternatives to closure available to defendant. Defense counsel appealed to state court of appeals.

    July 8, 1979: Judge for appeals court issued a stay of proceedings until the full court could consider the appeal.

    August 1, 1979: Appeal pending.

    People v. Allen, 79-78CF173 (Wisc. Cir. Ct., Dane County July 8, 1979).

SOUTH CAROLINA MURDER PRETRIAL MOTIONS PROCEEDING CLOSED TO PRESS, OPEN TO PUBLIC

12. July 9, 1979: Conway, South Carolina; County Circuit Court; Murder, rape, assault and battery with intent to kill case: pretrial motions proceeding.

    Defense counsel made motion to seal pretrial motions proceeding to the press, but not the public, on grounds that publicity could jeopardize a fair trial. Prosecution did not

oppose. Press verbally objected.

Judge ordered closure to press but not to public.

State v. Woomer, No. 79-GS-26-203 (S.C. Cir. Ct., Horry County July 9, 1979).

NEBRASKA PRETRIAL MURDER PROCEEDINGS CLOSED

13. July 10, 1979: Omaha, Nebraska; Douglas County District Court; First degree murder case: Pretrial proceeding to suppress evidence.

    Defense counsel made motion to seal pretrial proceeding from the press and the public on the grounds that news accounts might prejudice the defendant's right to obtain an impartial jury. Prosecutor did not oppose the motion. Omaha World-Herald filed motion in opposition. Motion dismissed.

    Judge ordered proceeding sealed to the press and the public. No appeal has been taken as of August 1.

    State v. Harper, No. 104-288 (Neb. Dist. Ct., Douglas County July 10, 1979).

COURT RULES OAKLAND BINGO MURDER PRELIMINARY HEARING SHOULD HAVE BEEN CLOSED

14. March 21, 1979: Oakland, California; Oakland Municipal Court; Bingo game murder case: Preliminary hearing on sufficiency of evidence to bind defendants for trial at Alameda County Superior Court.

    Defense counsel made motion to seal prelimianary hearing under California closure law. Prosecutor and press opposed the motion. Opposition filed by Oakland Tribune, San Francisco Examiner and San Francisco Chronicle.

    Judge denied closure motion. Preliminary hearing was held open. Case certified to Alameda County Superior Court.

    July 13, 1979: Defense Counsel made motion to dismiss due to defendant's deprivation of a closed preliminary hearing in municipal court. Prosecutor opposed this motion.

    Citing Gannett, Judge dismissed case on ground that defendants had been deprived of closed preliminary hearing in municipal court. Defendants subsequently re-arrested and indicted in municipal court.

    People v. Brown, No. 68703 (Calif. Alameda County Superior Court, July 13, 1979).

ANNAPOLIS ARSON CASE PROCEEDINGS CLOSED

15. July 13, 1979: Annapolis, Maryland; Anne Arundel County Court; Arson case: Pretrial proceedings to suppress incriminating statement and other evidence.

    Defense counsel made motion to seal pretrial proceedings on the grounds that news accounts might prejudice the defendant's right to obtain an impartial jury. Prosecution opposed the motion. Press verbally objected.

    Judge ordered the proceeding closed and indicated that, based on Gannett, he might even close the trial.

    People v. Beachem, No. 22083 (Md., Anne Arundel County Ct. July 13, 1979).

ROCHESTER PRETRIAL MURDER PROCEEDINGS KEPT OPEN

16. July 16, 1979: Rochester, New York; Monroe County Court; Murder case: Pretrial proceeding to suppress evidence.

    Defense counsel made motion to seal pretrial proceeding on grounds that news accounts might prejudice the defendant's right to obtain an impartial jury. Prosecutor opposed the motion.

    Judge denied motion on grounds that an insufficient showing had been made that there would be jury bias from news reports.

    People v. Taylor, No. 263/79 (N.Y., Monroe County Ct. July 16, 1979).

COLORADO MURDER TRIAL KEPT OPEN

17. July 17, 1979: Colorado; Littleton Judicial District Court; Murder case: trial.

    Defense counsel made motion to close trial on the grounds that news accounts might prejudice the defendant's right to obtain an impartial jury. Prosecution opposed. No reported press objection.

    Judge denied motion.

    People v. Bartowsheski, No. 79CR-516 (Colo., 18th Dist. July 17, 1979).

U.S. ATTORNEY LOSES EFFORT TO SEAL ALL PRETRIAL PROCEEDINGS

18. July 18, 1979: Oklahoma City, Oklahoma; U.S. District Court; Conspiracy charge against a state senator and three others to influence bank loan case: Pretrial proceeding to suppress evidence.

    U.S. Attorney made motion to seal all pretrial proceedings and documents on the grounds that news accounts might prejudice the

government's and the defendant's right to obtain an impartial jury. Defense counsel opposed motion, citing right to public trial provision of the Sixth Amendment. Daily Oklahoman opposed motion.

Judge denied closure motion on the grounds that Gannett can only be invoked by the defense and not by the prosecution.

U.S. v. Stipe, No. 79-123 (D. Okla. July 18, 1979).

U.S. DISTRICT COURT DENIED MOTION TO SEAL PRETRIAL MURDER CASE SECRECY

19. July 19, 1979: Seattle, Washington; U.S. District Court; Murder case: Pretrial proceeding to suppress evidence.

Defense counsel made motion to seal pretrial proceedings on the grounds that news accounts might prejudice the defendant's right to obtain an impartial jury. Prosecution opposed motion: Seattle Times and Seattle Post-Intelligence intervened.

July 27, 1979: Judge denied the motion to seal proceeding on grounds that an insufficient showing had been made that there would be jury bias from news reports.

U.S. v. Baker, No. CR 79-159 (W.D. Wash. July 19, 1979).

ALBANY JUDGE SEALS POLICE BURGLARY PRETRIAL PROCEEDINGS

20. July 19, 1979: Albany, New York; Albany County Court; Burglary case against two suspended police officers: Pretrial proceeding to suppress incriminating statements.

Defense counsel made motion to seal pretrial proceeding from the press and public on grounds that news accounts would prejudice the defendant's right to obtain an impartial jury. Co-defense counsel and prosecutor joined in the motion. Knickerbocker News reporter verbally protested the motion.

Judge ordered proceedings sealed to the press and the public and transcripts sealed until a verdict or other disposition is reached.

People v. Buchanan and Vita, No. 3036-79 (N.Y., Albany County July 19, 1979).

WISCONSIN MURDER CASE PRETRIAL PROCEEDING KEPT OPEN

21. July 20, 1979: Madison, Wisconsin; Dane County Circuit Court; Murder case: Pretrial proceeding to suppress evidence.

Defense counsel made motion to seal pretrial proceeding from the press but not the public on grounds that news accounts might prejudice the defendant's right to obtain an impartial jury. Prosecution and the Wisconsin Freedom of Information Council opposed the motion.

Judge refused to order closure.

People v. Drogsvold, No. 79-CF 347 (Wisc., Cir. Ct., Dane County July 20, 1979).

ALBANY JUDGE EXCLUDES PRESS, ADMITS PUBLIC IN DRUG PROCEEDINGS

22. July 20, 1979: Albany, New York; Albany County Court; Illegal drug possession case: Pretrial suppression involving a confession.

Defense counsel made motion to seal pretrial proceeding from the press but not the public on the grounds that news accounts would prejudice the defendant's right to obtain an impartial jury. Prosecutor opposed the motion. Knickerbocker News reporter present in courtroom verbally objected.

Judge ordered proceedings sealed to the press but permitted public to attend and issued an order to the public not to disclose to anyone what occurred during the proceeding. Proceeding adjourned until August 22.

August 1, 1979: Order remains in effect. Knickerbocker News planning to appeal.

People v. Sullivan, No. 3721-79 (N.Y., Albany County August 1, 1979).

COLORADO COURT TO DECIDE DRUG CASE SECRECY MOTION

23. July 23, 1979: Colorado; Golden Judicial District Court; Conspiracy to dispense dangerous drugs case: Pretrial proceeding to suppress evidence.

Defense counsel for two of 23 defendants made motion to seal pretrial proceeding on the grounds that news accounts might prejudice the defendant's right to obtain an impartial jury. Prosecution took no position. No reported press objection.

August 1, 1979: Closure motion pending, Golden Judicial District Court.

People v. Casey, No. 79-CR496 (1st Dist. July 23, 1979).

WEST VIRGINIA MURDER PRETRIAL CLOSED TO PRESS, OPEN TO PUBLIC

24. July 24, 1979: Huntington, West Virginia; Cabell County Circuit Court; Kidnapping case: Pretrial proceeding to suppress evidence.

Defense counsel made motion to seal pretrial proceeding to press, but not to public, on the grounds that news accounts might prejudice the defendant's right to obtain an impartial jury. Prosecution did not oppose. No reported press objection.

Judge ordered the proceeding closed to the press, but not the public.

People v. Warth, No. 79-C13 (W. Va. Cir. Ct., Cabell County July 24, 1979).

ALBANY SODOMY TRIAL KEPT OPEN

25. July 25, 1979: Albany, New York; Albany County Court; Sodomy case: trial.

Witness' counsel made motion to close trial during witness' testimony on grounds that news accounts of the testimony would prejudice the witness' right to obtain an impartial jury in a later trial on a pending related charge. The defense counsel joined the motion. Press did not oppose

the motion.

Judge denied motion to close the trial.

People v. Angus, No. 104-69-78 (N.Y., Albany County July 25, 1979).

MARYLAND RAPE TRIAL CLOSED

26. July 25, 1979: Westminster, Maryland; Carroll County Circuit Court; Rape case: trial.

Defense counsel made motion to close trial on grounds that public trial would be embarrassing to victim. Prosecution did not oppose. Press attempted to object but was denied.

Judge ordered the trial closed.

State v. Hicks, No. 5003 (Md. Cir. Ct., Carroll County July 25, 1979).

ALABAMA PRESS BARRED FROM PUBLISHING MURDER JURY SELECTION PROCEEDING

27. July 26, 1979: Oneonta, Alabama; Blount County Circuit Court; First degree murder case: trial.

Judge, on his own motion, issued gag order on newspaper accounts the first day of trial until jury in co-conspirator's trial was selected and sequestered on grounds that news accounts might prejudice the co-conspirator's right to obtain an impartial jury. Prosecutor and defense counsel supported the order. Order also barred news accounts of the gag order itself and barred a specific reporter from the Birmingham Post- Herald from attending the other murder trial.

July 27, 1979: Birmingham Post-Herald printed story on trial account.

August 1, 1979: Post-Herald and its reporter ordered to show cause why they should not be held in contempt.

August 7, 1979: Reporter held in contempt of court and sentenced to three days in jail. Reporter and editor fined $100 each. Sentence and fine stayed for appeal. Post-Herald and its reporter appealed.

August 8, 1979: Appeal pending before Alabama Supreme Court.

State v. Giles, No. CC79-090,091 (Ala. Cir. Ct., Blount County July 26, 1979).

ILLINOIS PRETRIAL PROCEEDINGS CLOSED

28. July 27, 1979: Mount Carroll, Illinois; Carroll County Circuit Court; Murder case: Pretrial proceeding to suppress evidence.

Defense counsel made motion to seal pretrial proceedings to the public and press on grounds that news accounts might prejudice the defendant's right to obtain an impartial jury. Prosecution took no position. Press verbally opposed the motion.

Judge ordered proceeding closed citing Gannett.

State v. Nichols, No. 79CF22 (Ill. Cir. Ct., Carroll County July 28, 1979).

ALBANY PRETRIAL BURGLARY PROCEEDINGS KEPT OPEN

29. July 30, 1979: Albany, New York; Albany County Court; Burglary case: Pretrial proceeding to suppress incriminating statement.

Defense counsel made motion to seal pretrial proceeding from the press and the public on the grounds that news accounts might prejudice the defendant's right to obtain an impartial jury. Prosecutor opposed the motion.

Judge denied motion to seal the proceeding on grounds that there had been insufficient publicity to justify a closed proceeding.

People v. Webb, No. 399-79 (N.Y., Albany County July 30, 1979).

NEBRASKA RAPE CASE PRETRIAL PROCEEDINGS CLOSED

30. July 31, 1979: Kearney, Nebraska; Buffalo County District Court; rape case: Pretrial proceeding to suppress evidence.

Defense counsel made motion to seal pretrial proceeding from the press and the public on the grounds that news accounts would be embarrassing to the victim. Prosecutor apparently took no position. Kearney Hub and broadcast media verbally opposed the motion.

Judge ordered proceeding sealed.

State v. Earlgewecke, No. 5861 (Neb. Dist. Ct., Buffalo County July 31, 1979).

MASSACHUSETTS KIDNAP-MURDER PROCEEDING SEALED

31. July 20, 1979: New Bedford, Massachusetts; Bristol County Superior Court; Kidnap-murder case: Pretrial proceeding to suppress confession.

Defense counsel made motion to seal pretrial proceeding from the press and the public on the grounds that news accounts might prejudice the defendant's right to obtain an impartial jury. Prosecutor joined in the motion. Press apparently did not object.

Judge ordered proceeding sealed, citing Gannett.

Commonwealth v. Silva, Nos. 4000 and 4001 (Mass. Superior Court, Bristol County July 20, 1979).

FEDERAL COURT TO DECIDE BRIBERY TRIAL SECRECY

32. August 2, 1979: Nashville, Tennessee; U.S. District Court; Prison pardon bribery: Trial

Defense counsel for one of five co-defendants, former aides to former Governor Ray Blanton and two others, made motion to seal trial from the public and the press on the grounds that the unsequestered jury had seen news accounts of a hearing on evidence for which the jury was not present. One co-defendant joined the motion. Prosecutor did not oppose the motion. The Nashville Tennessean, Sigma Delta Chi, and two television stations opposed the motion.

August 6, 1979: Motion pending before U.S. District Court.

U.S. v. Benson, No 79-30054 (M.D. Tenn. August 2, 1979).

GROUP MURDER PRETRIAL PROCEEDINGS CLOSED

33. July 30, 1979: Papillion, Nebraska; Sarpy County District Court; First-degree murder case involving seven defendants: Pretrial hearing on the indictment.

    Defense counsel made motion to seal pretrial proceedings on the grounds that news accounts would prejudice the defendants' right to obtain an impartial jury. Prosecutor took no position. Omaha World Herald and other press groups opposed.

    Judge sealed the proceedings, citing Gannett.

    State v. Leander, (Neb. Dist. Ct., Sarpy County July 30, 1979).

SCHOOL OFFICIAL EMBEZZLEMENT CASE SEALED

34. July 31, 1979: Aurora, Nebraska; Hamilton County Court; School superintendent embezzlement case: Pretrial proceeding to suppress evidence.

    Defense counsel made motion to seal pretrial proceeding from the press and the public on the grounds that news accounts might prejudice the defendant's right to obtain an impartial jury. Prosecutor did not oppose the motion.

    Judge ordered proceeding sealed.

State v. Zichek, No. 12266-22 (Neb. Cnty. Ct., Hamilton County July 31, 1979).

OHIO MURDER-KIDNAP CASE SEALED

35. August 2, 1979: Jefferson, Ohio; Ashtabula County Court of Common Pleas; Kidnap-murder case: Pretrial proceeding to suppress evidence.

    Defense counsel made motion to seal pretrial proceeding from the press and the public on the grounds that news accounts might prejudice the defendant's right to obtain an impartial jury. Prosecutor did not oppose the motion. The president of The Jefferson Gazette protested the motion in a letter to the judge.

    The Judge ordered the proceeding sealed.

    State v. Aldridge, Nos. 10241, 10242 (Ohio Court of Common Pleas, Ashtabula County August 2, 1979).

OKLAHOMA MURDER PRETRIAL CLOSURE MOTION WITHDRAWN

36. July 27, 1979: Oklahoma City, Oklahoma; Oklahoma County District Court; First degree murder case: Pretrial proceeding to suppress evidence.

    Defense counsel made motion to seal pretrial proceeding from the press and the public on the grounds that news accounts might prejudice the defendant's right to obtain an impartial jury. Prosecution opposed the motion. The Daily Oklahoman opposed the motion.

July 30, 1979: Defense counsel withdrew motion to seal proceeding after prosecution said it would not introduce certain evidence.

State v. Cochran, CRF 79-2376 (Okla. Dist. Ct., Oklahoma County July 27, 1979).

MAINE ATTEMPT TO CLOSE MURDER PROCEEDINGS DENIED

37. July 27, 1979: Ellsworth, Maine; Hancock County Superior Court; Murder case: Pretrial proceeding to suppress evidence.

Defense counsel made motion to seal pretrial proceeding from the press and the public on the grounds that news accounts might prejudice the defendant's right to obtain an impartial jury. Prosecution opposed the motion. The Ellsworth-American opposed the motion.

The judge denied the motion to seal the proceedings.

State v. Grindele, No. CR-79-51 (Maine Super. Ct., Hancock County July 27, 1979).

IOWA JUDGE TO DECIDE COUNTERFEITING PRETRIAL SECRECY

38. July 25, 1979: Des Moines, Iowa; U.S. District Court; Counterfeiting case: Pretrial motion to close trial.

Defense counsel made motion to close trial from the press and the public on the grounds that news accounts of entrapment defense involving the defendant's past activities as a police informant, might endanger the defendant's safety. The prosecution and The Des Moines Register opposed the motion.

August 6, 1979: Motion to close trial pending.

U.S. v. Powers, No. 79-26 (S.D. Iowa July 25, 1979).

OKLAHOMA MURDER PRETRIAL CLOSURE REJECTED

39. July 26, 1979: Oklahoma City, Oklahoma; Oklahoma County District Court; First degree murder case: Pretrial proceeding to suppress evidence.

Defense counsel for one of four co-defendants made motion to seal pretrial proceeding on the grounds that news accounts might prejudice the defendant's right to obtain an impartial jury. Prosecution and The Daily Oklahoman opposed the motion.

Judge denied the motion.

State V. McIntire, No. CRF 79-2282 (Okla. Dist. Ct., Oklahoma County July 26, 1979).

NEBRASKA MURDER CASE PRETRIAL HEARING OPEN

40. August 13, 1979: North Platte, Nebraska; Lincoln County District Court; Murder case: Pretrial proceeding to suppress confession.

    Defense counsel made motion to seal pretrial proceeding to public and press on the grounds that news accounts might prejudice the defendant's right to obtain an impartial jury. Prosecutor agreed to closure request.

    Judge denied the motion to seal proceeding on grounds that the confession was already public record and there was therefore no reason to close the hearing.

    State v. Simants, No. B 2904 (Neb. Dist. Ct., Lincoln County August 13, 1979).

NORTH CAROLINA KIDNAP AND RAPE TRIAL CLOSED

41. July 12, 1979: Charlotte, North Carolina; Mecklenburg County Superior Court; Kidnapping and rape case: Trial.

    Prosecutor made motion to close trial to press and public during testimony of alleged rape victim on grounds that public testimony would be embarrassing to witness. Defense counsel did not oppose the motion. Press apparently did not oppose.

    Judge ordered trial closed during witness' testimony.

    State v. Lynch, No. 79 CRS 7594 (N.C. Super. Ct., Mecklenburg County July 12, 1979).

FEDERAL COURT RAPE TRIAL KEPT OPEN

42. August 14, 1979: Charleston, West Virginia; U.S. District Court; Rape case: Trial.

    Defense made motion to close portions of trial to press but not public, or to gag press on grounds that the unsequestered jury might see news accounts of hearings on evidence at which jury would not be present. Prosecutor objected. Associated Press, Charleston Daily Mail and Charleston Gazette opposed motion.

    Judge denied closure and gag motions.

    U.S. v. Barber, No. 79-20038 (S.D.W.Va. August 16, 1979).

HAWAII ATTEMPTED MURDER PRETRIAL HEARING KEPT OPEN

43. July 18, 1979: Honolulu, Hawaii; Circuit Court of the First Circuit: Attempted murder case: Pretrial proceeding to suppress evidence.

    Defense counsel made motion to seal pretrial proceeding from the press and the public on grounds that news accounts might prejudice the defendant's right to obtain an impartial jury. Prosecutor did not object. Honolulu Star-Bulletin, Honolulu Advertiser and KGMB-TV objected to the motion

    Judge said the media had no standing to contest the motion.

    Judge denied closure motion on grounds that defense attorney had not shown exceptional circumstances which justified closure.
    State v. Bryant, No. 52574 (Hawaii Cir. Ct. Honolulu July 18, 1979).

NEW YORK PRETRIAL MURDER PROCEEDING KEPT OPEN

44. August 8, 1979: Riverhead, New York; New York State Supreme Court; Murder case: Pretrial proceeding to suppress statement.

Defense counsel made motion to seal pretrial proceeding from the press and the public on grounds that news accounts might prejudice the defendant's right to obtain an impartial jury. Prosecutor did not oppose the motion.

Judge ordered proceeding closed citing Gannett. Newsday then opposed the closure.

August 15, 1979; Judge reversed himself and ordered that proceeding be opened. Defense counsel said he would appeal.

People v. Briggs, No. 178-79 (New York Sup. Ct., Suffolk County August 15, 1979).

MICHIGAN MURDER PRETRIAL PROCEEDING KEPT OPEN

45. July 2, 1979; Grand Rapids, Michigan; Kent County Circuit Court; Murder case: Pretrial proceeding on evidence.

Defense counsel made motion to seal pretrial proceeding on grounds that news accounts might prejudice the defendant's right to obtain an impartial jury. Prosecutor and Grand Rapids Press opposed the motion.

Judge denied the motion.

State v. Lee, No. 79-24278FY, (Mich. Dist. Ct., Kent County July 2, 1979).

HAWAII RAPE PRETRIAL PROCEEDING CLOSED: TRIAL KEPT OPEN

46. July 23, 1979; Honolulu, Hawaii; Circuit Court; rape case: Pretrial proceeding on motion to close trial.

Defense counsel made motion to seal pretrial proceeding concerning motion to close trial to press and public on grounds that news accounts of trial would be embarrassing to the defendant. Prosecutor opposed the motion to close the trial, but not the sealed pre-trial hearing to decide the motion. Honolulu Star-Bulletin opposed both motions.

Judge granted the motion to seal the pretrial hearing, but, during the sealed proceeding, denied the motion to close the trial. Judge also ruled that the press had no standing to object to the closed trial motion in the pretrial proceeding. Judge made transcript of sealed hearing available to the press and the public.

State v. Lima, Cr. No. 52998 (Hawaii Cir. Ct., Honolulu July 23, 1979).

CALIFORNIA MURDER PRETRIAL PROCEEDING CLOSED AND TRANSCRIPT SEALED

47. July 18, 1979: Napa, California; Napa County Municipal Court; Murder case: Pretrial proceeding.

Defense counsel made motion to seal pretrial proceeding to press and public, citing California Penal Code 868 requiring closed pretrial proceedings merely upon the motion of the defense. Prosecution did not oppose.

Press verbally objected.

Judge closed proceeding. Journalism professor reportedly asked for a copy of the transcript of that portion of the proceeding concerning the closure motion, but was told the judge had ordered the transcript sealed.

August 14, 1979: Professor may appeal to obtain transcript.

People v. Maluenda, No. 4933 (Calif. Mun. Ct., Napa County July 18, 1979).

WISCONSIN MURDER PRETRIAL OPEN TO PUBLIC BUT CLOSED TO PRESS (EXCEPT IF PRESS AGREES TO SUPPRESS NEWS OF TESTIMONY)

48. August 7, 1979: Antigo, Wisconsin; Langlade County Circuit Court; Murder case: Pretrial motion proceeding.

Prosecutor and defense counsel made motion to seal pretrial proceedings from the press and the public until jury chosen on grounds that news accounts might prejudice the defendant's right to obtain an impartial jury.

Judge denied the motion but before the proceeding met with reporters and ordered them not to publish news about confessions, some physical evidence, and release on bail. Judge said anyone violating the guidelines would be barred from subsequent proceedings. Some reporters voiced objections, but all agreed.

State v. Stawicki, No. 38-138 (Wisc. Cir. Ct., Langlade County August 7, 1979).

OAKLAND PRETRIAL MURDER PROCEEDING CLOSED

49. August 16, 1979: Oakland, California; Oakland Municipal Court; Multiple murder case: Pretrial hearing on sufficiency of evidence to bind defendant for trial.

Defense counsel made motion to seal pretrial proceeding under California closure law. Prosecutor and press opposed the motion. Opposition filed by Oakland Tribune.

Judge ordered proceeding closed, saying he was bound by the state closure law.

People v. Hughes, No. 153556 (Cal.,Oakland Municipal Court, Alameda County, August 16, 1979).

OREGON PRETRIAL CLOSURE REJECTED IN ATTEMPTED ASSAULT CASE

50. August 8, 1979: Dallas, Oregon; Polk County District Court; Attempted assault and menacing case: Pretrial hearing on sufficiency of evidence to bind defendant for trial.

Citing Gannett, defense counsel made motion to seal pretrial proceeding on the ground that news accounts would prejudice the defendant's right to obtain an impartial jury. Prosecutor opposed the motion. Representative of local weekly newspaper present in court but did not oppose.

Judge denied the motion.

State v. Graham No. CR 79-636 (Ore., Polk County District Court, August 10, 1979).

U.S. DISTRICT COURT POST-CONVICTION SENTENCING HEARING CLOSED

51. July 31, 1979: New York City, New York; U.S. District Court; Union bribery case: Sentencing hearing.

Defense counsel made motion to seal post-trial sentencing hearing on ground that if publicized, evidence presented at hearing might prejudice potential jurors in defendant's upcoming trial on racketeering charges. Prosecution opposed the closure.

Judge closed the hearing.

U.S. v. Held, No. 79CR222 (S.D. New York, July 31, 1979).